

**RECEIVED
CENTRAL FAX CENTER**

OCT 13 2006

P.3

| | | | | | | | | | | | | | | | | | | |
|---|------------------|-----------|---|----------------|------------------|-----------------------------|-------------|----------|--------------|----------------|------------------|------------|------------------|-----------|-------|------|------|--|
| COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Large Entity) | | | | | | Docket No. 78848-33 /jas | | | | | | | | | | | | |
| In Re Application Of: DAVID BOERTJES, ET AL. | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Application No.</td> <td style="width: 15%;">Filing Date</td> <td style="width: 15%;">Examiner</td> <td style="width: 15%;">Customer No.</td> <td style="width: 15%;">Group Art Unit</td> <td style="width: 15%;">Confirmation No.</td> </tr> <tr> <td>10/067,910</td> <td>February 8, 2002</td> <td>Shi K. Li</td> <td>07380</td> <td>2613</td> <td>8036</td> </tr> </table> | | | | | | Application No. | Filing Date | Examiner | Customer No. | Group Art Unit | Confirmation No. | 10/067,910 | February 8, 2002 | Shi K. Li | 07380 | 2613 | 8036 | |
| Application No. | Filing Date | Examiner | Customer No. | Group Art Unit | Confirmation No. | | | | | | | | | | | | | |
| 10/067,910 | February 8, 2002 | Shi K. Li | 07380 | 2613 | 8036 | | | | | | | | | | | | | |
| Invention: METHOD OF WDM CHANNEL TAGGING AND MONITORING, AND APPARATUS | | | | | | | | | | | | | | | | | | |
| <u>COMMISSIONER FOR PATENTS:</u> | | | | | | | | | | | | | | | | | | |
| <p>This is a combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of <u>April 13, 2006</u> in the above-identified application.</p> | | | | | | | | | | | | | | | | | | |
| <p>Applicant(s) hereby appeal(s) to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated August 29, 2006 finally rejecting Claim(s) 1-3, 15 and 39-44</p> | | | | | | | | | | | | | | | | | | |
| <p>Applicant(s) hereby request(s) an extension of time of (check desired time period):</p> | | | | | | | | | | | | | | | | | | |
| <p><input type="checkbox"/> One month <input checked="" type="checkbox"/> Two months <input type="checkbox"/> Three months <input type="checkbox"/> Four months <input type="checkbox"/> Five months</p> | | | | | | | | | | | | | | | | | | |
| from: <u>August 13, 2006</u> <i>Date</i> | | | until: <u>October 13, 2006</u> <i>Date</i> | | | | | | | | | | | | | | | |
| <p>The fee for the Notice of Appeal and Extension of Time has been calculated as shown below:</p> | | | | | | | | | | | | | | | | | | |
| <p>Fee for Notice of Appeal: <u>\$500.00</u></p> | | | | | | | | | | | | | | | | | | |
| <p>Fee for Extension of Time: <u>\$450.00</u></p> | | | | | | | | | | | | | | | | | | |
| <p>TOTAL FEE FOR NOTICE OF APPEAL AND EXTENSION OF TIME: <u>\$950.00</u></p> | | | | | | | | | | | | | | | | | | |
| <p>The fee for the Notice of Appeal and extension of time is to be paid as follows:</p> | | | | | | | | | | | | | | | | | | |
| <p><input type="checkbox"/> A check in the amount of for the Notice of Appeal and extension of time is enclosed.</p> | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="checkbox"/> Please charge Deposit Account No. 19-2550 in the amount of \$950.00</p> | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No.</p> | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16.</p> | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.</p> | | | | | | | | | | | | | | | | | | |
| <p><input checked="" type="checkbox"/> If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 19-2550</p> | | | | | | | | | | | | | | | | | | |
| <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> | | | | | | | | | | | | | | | | | | |
| <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> | | | | | | | | | | | | | | | | | | |

RECEIVED
CENTRAL FAX CENTER

OCT-13-2006 16:46 FROM:

6132328440

TO: USPTO

OCT 13 2006 P-4

COMBINED NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR
EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Large Entity)

Docket No.
78848-33 /jas

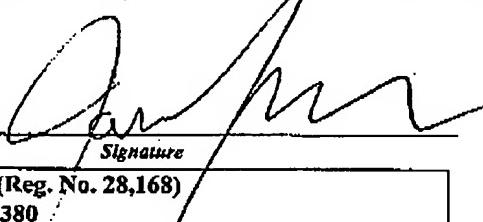
In Re Application Of: DAVID BOERTJES, ET AL.

| | | | | | |
|-------------------------------|---------------------------------|-----------------------|-----------------------|------------------------|--------------------------|
| Application No. 10/067,910 | Filing Date February 8, 2002 | Examiner Shi K. Li | Customer No. 07380 | Group Art Unit 2613 | Confirmation No. 8036 |
|-------------------------------|---------------------------------|-----------------------|-----------------------|------------------------|--------------------------|

Invention: METHOD OF WDM CHANNEL TAGGING AND MONITORING, AND APPARATUS

TO THE COMMISSIONER FOR PATENTS:

This combined Notice of Appeal from the Primary Examiner to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:



Dated: October 13, 2006

James McGraw (Reg. No. 28,168)

Customer No. 07380

Tel. No. (613) 232-2486

Certificate of Transmission by Facsimile*

I certify that this document and authorization to charge deposit account is being facsimile transmitted to the United States Patent and Trademark Office
(Fax no.) on

(Date)

Signature

Typed or Printed Name of Person Signing Certificate

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a) on

(Date)

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

CC:

SMART & BIGGAR

**RECEIVED
CENTRAL FAX CENTER**

Intellectual Property & Technology Law

To Fax no.: (571) 273-8300 **OCT 13 2006** P.O. Box 2999, Station D
Page 1 of: 26 55 Metcalfe Street, Suite 900
Ottawa, Canada K1P 5Y6
Attention: MAIL STOP AF & APPEAL BRIEFS Tel.: (613) 232-2486
Group Art Unit 2163 Fax: (613) 232-8440
Examiner Shi K. Li
From: SMART & BIGGAR
Your file no.: 10/067,910 **Date:** October 13, 2006
Reply to Ottawa file no.: 78848-33 /jas **Time:**

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax. No.

(571) 273-8300 on October 13, 2006.

type or printed name of the person signing this certificate

James McGraw (Reg. No. 28,168)

Signature

If there are any transmission problems, please call (613) 232-2486.

Original copy and any enclosures

will be sent by mail
 will not courier

The information contained in this transmission is confidential and only for the intended recipient identified above. If you are not the intended recipient, you are hereby notified that any dissemination or use of this communication is unlawful. If you have received this transmission in error, please immediately notify us by telephone (collect). Return the original message to us and retain no copy.

OCT-13-2006 16:46 FROM:

6132328440

TO: USPTO

OCT 13 2006 P²

Doc

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. DMB 0851-0031U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

25

Application Number

10/067,910

Filing Date

February 8, 2002

First Named Inventor

BOERTJES, David et al.

Art Unit

2613

Examiner Name

Shi K. I.I

Attorney Docket Number

78848-33 /jas

ENCLOSURES (Check all that apply)

| | | |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to TC |
| <input type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment / Reply | <input type="checkbox"/> Petition | <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address | <input type="checkbox"/> Status Letter |
| <input checked="" type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Terminal Disclaimer | <input type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Request for Refund | Transmittal of Appeal Brief |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> Landscape Table on CD | |
| <input type="checkbox"/> Response to Missing Parts/ Incomplete Application | | |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | | |
| Remarks | | |
| Submitted herewith is a Combined Notice of Appeal with Petition for Extension of Time; together with an Appeal Brief | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

SMART & BIGGAR

Signature

Printed name

James McGraw

Date

October 13, 2006

Reg. No 28,168

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature

Typed or printed name

Date

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.